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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/762,955	03/23/2001	Atsushi Hayashi	108614	2020
25944	7590 05/03/2005		EXAMINER	
OLIFF & BERRIDGE, PLC			SAGER, MARK ALAN	
P.O. BOX 19928 ALEXANDRIA, VA 22320			ART UNIT	PAPER NUMBER
	,		3714	<u> </u>

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

		<u> </u>			
	Application No.	Applicant(s)			
Office Action Summary	09/762,955	HAYASHI, ATSUSHI			
Office Action Gammary	Examiner	Art Unit			
The MAH INC DATE of this communication and	M. A. Sager	3714			
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence address			
A SHORTENED STATUTORY PERIOD FOR REPLY THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a reply - If NO period for reply is specified above, the maximum statutory period w  - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	36(a). In no event, however, may a reply be time within the statutory minimum of thirty (30) days will apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE	nely filed s will be considered timely. the mailing date of this communication. D (35 U.S.C. § 133).			
Status					
1) Responsive to communication(s) filed on 15 Ju	ne 2004 and 08 March 2004.				
2a) ☐ This action is <b>FINAL</b> . 2b) ☑ This	action is non-final.				
3) Since this application is in condition for allowance except for formal matters, prosecution as to the ments is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.					
Disposition of Claims					
4) ⊠ Claim(s) 35-66 is/are pending in the application 4a) Of the above claim(s) is/are withdray 5) ⊠ Claim(s) 35-50 is/are allowed. 6) ⊠ Claim(s) 51-66 is/are rejected. 7) □ Claim(s) is/are objected to. 8) □ Claim(s) are subject to restriction and/or	vn from consideration.				
Application Papers					
9) The specification is objected to by the Examine.  10) The drawing(s) filed on is/are: a) access applicant may not request that any objection to the objected to by the Examine.  Replacement drawing sheet(s) including the correction access according to the Examine.	epted or b) objected to by the liderawing(s) be held in abeyance. See ion is required if the drawing(s) is obj	e 37 CFR 1.85(a). lected to. See 37 CFR 1.121(d).			
Priority under 35 U.S.C. § 119					
12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of:  1. Certified copies of the priority documents 2. Certified copies of the priority documents 3. Copies of the certified copies of the prior application from the International Bureau * See the attached detailed Office action for a list	s have been received. s have been received in Applicati ity documents have been receive u (PCT Rule 17.2(a)).	on Noed in this National Stage			
Attachment(s)  1) Notice of References Cited (PTO-892)  2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  Paper No(s)/Mail Date	4) Interview Summary Paper No(s)/Mail Da 5) Notice of Informal P 6) Other:				

## Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claim 51-66 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The cited claims include 'in a carrier wave' which is a signal and thus claimed invention fails to provide a concrete, tangible and useful result. Signal per se is not statutory subject matter. See *State Street Bank & Trust Co. v. Signature Financial Group, Inc.*, 47 USPQ2d 1596, 1601-02 (Fed. Cir. 1998). Also, claim language may be interpreted to be as functional descriptive material (i.e. program) that is encoded on a readable media if information storage medium is computer readable. Functional descriptive material includes data structures and computer programs that impart functionality when encoded on computer readable media.

## Response to Arguments

3. Applicant's arguments with respect to claim 51-66 have been considered but are moot in view of the new ground(s) of rejection.

## Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. A. Sager whose telephone number is 571-272-4454. The examiner can normally be reached on T-F, 0700-1730 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's acting supervisor, Jessica Harrison can be reached on 571-272-4449. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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on control (varioc).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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